

Applicants: GÖPFERICH, Achim et al.
U.S. National Phase of PCT/EP 00/06313
Serial No: 10/019,797

Att. Docket MB9962P

REMARKS

Claims 12, 13 and 16 to 32 are withdrawn from consideration. By present amendment, claims 1 to 3, 5, 6 have been amended, and new claims 33 to 59 have been added. Care has been taken to avoid the introduction of new matter. Following entry of this Amendment, claims 1-6 and 9 to 59 will be pending in the application, with claim 1 being independent and claims 12, 13 and 16 to 32 being withdrawn.

The Office Action rejected claims 1 to 6, 9 to 11, 14 and 15 under 35 U.S.C. 102(b) as allegedly being anticipated by Domb et al. (WO 95/03356), rejected claims 9 and 11 under 35 U.S.C. 103(a) as allegedly being unpatentable over Domb et al., and rejected claim 11 under 35 U.S.C. 103(a) as allegedly being unpatentable over Domb et al. in view of Illum (U.S. Patent No. 4,904,479) .

Applicants note that independent claim 1 is rejected only on Domb et al. Applicants submit that this claim has now been amended. Now, since all of the limitations of amended, independent claim 1 are neither expressly nor inherently disclosed by Domb et al., the rejection of independent, amended claim 1 no longer has merit. Accordingly, Applicants respectfully traverse the rejection as it relates to the currently presented claim 1 and all claims dependent therefrom.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (Emphasis added; Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). Thus, for a rejection under 35 U.S.C. § 102(b) to be proper, every limitation recited in a claim, which is rejected as being anticipated by a prior-art reference, must be clearly

disclosed in that single prior-art reference. In the instant case, Applicants respectfully submit that the cited Domb et al. reference does not disclose each and every element that is recited in any of the presently rejected claims, and, therefore, the cited Domb et al. reference does not anticipate any of the claims under 35 U.S.C. § 102(b).

Applying the above standard, Domb et al. does not disclose a block copolymer, including, among other things, a hydrophobic biodegradable polymer a), the hydrophobic polymer a) being selected from one or more of polylactide, polyglycolide and poly(lactide-co-glycolide), and a hydrophilic polymer b) comprising polyethylene glycol, the hydrophilic polymer having at least one reactive group c), the at least one reactive group c) comprising a first functional end group bound directly to the hydrophobic polymer a) and a second functional end group for binding of a surface-modifying substance d) to the hydrophilic polymer b) either directly or by way of an at least bifunctional molecule,” as recited in independent, amended claim 1.

Accordingly, it is submitted that the presently pending independent, amended claim 1 distinguishes over the prior art of record. It is further asserted that all dependent claims are allowable at least because of their dependencies upon independent, amended claim 1, and further because of the additional limitations recited in those dependent claims. Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b).

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In view of the above, the Examiner is requested to consider the application now to be in condition for allowance, and an early indication of same is requested. The Examiner is invited to contact the undersigned with any questions.

The Commissioner is hereby authorized to charge any needed fees to deposit account 50-1600.

Respectfully submitted,



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